



JEFF ANDERSON & ASSOCIATES PA

REACHING ACROSS TIME FOR JUSTICE

March 23, 2023

VIA E-FILING

The Honorable Martin Glenn
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

Re: *In re. The Roman Catholic Diocese of Rockville Centre, New York*
Case No. 20-12345

Dear Judge Glenn:

In responses to the Debtor's Fifth and Sixth Omnibus Objections, I made reference to *J.D. v. Archdiocese of New York, et al.*, 2022-01595 (1st Dept.), which was under consideration at the time. [Docket Nos. 1745 at ¶30 and 1799 at ¶37]. I write to respectfully call the Court's attention to the First Department's decision in that case from this morning.

Respectfully submitted,

Patrick Stoneking
pstoneking@andersonadvocates.com

PS:lr
Encs.

ATTORNEYS

JEFFREY R. ANDERSON
Minnesota / Wisconsin
Illinois / Colorado
New York / Pennsylvania
New Jersey

MICHAEL FINNEGAN
Minnesota / Wisconsin
California / New York

MIKE RECK
California / New York
Texas / Pennsylvania

ELIN LINDSTROM
Minnesota / Wisconsin
New York

TRUSHA GOFFE
Minnesota
Washington DC
New Jersey / New York

PATRICK STONEKING
Minnesota / Wisconsin
New York / North Dakota

JOSH PECK
Minnesota

MOLLY BURKE
Minnesota

JENNIFER STEIN
California

NAHID SHAIKH
New York / New Jersey

TAYLOR STIPPEL
Minnesota / New York

STACEY BENSON
Minnesota / New York

CLAYTON HINRICH
Minnesota

CAVONE MOORE
California

JACK BOYD
New Jersey / Missouri

ALEXIS REDD
New York

Appellate Division, First Judicial Department

Renwick, J.P., Friedman, Scarpulla, Mendez, Rodriguez, JJ.

17569

J.D.,

Plaintiff-Appellant,

Index No. 950231/19

Case No. 2022-01595

-against-

THE ARCHDIOCESE OF NEW YORK,

Defendant-Respondent,

FORDHAM PREPARATORY SCHOOL et al.,

Defendants.

Herman Law, New York (Jeffrey Herman of counsel), for appellant.

Leahey & Johnson, P.C., New York (Peter J. Johnson of counsel), for respondent.

Order, Supreme Court, New York County (George J. Silver, J.), entered on or about September 24, 2021, which granted so much of the motion of defendant The Archdiocese of New York (the Archdiocese) to dismiss the complaint as against it pursuant to CPLR 3211(a)(1), unanimously reversed, on the law, without costs, the motion denied and the complaint reinstated.

Although the deeds for the property upon which defendant Fordham Preparatory School is located and the Certificates of Incorporation for defendant USA Northeast Province of The Society Of Jesus constitute documentary evidence for the purposes of a CPLR 3211(a)(1) inquiry (*see generally Yoshiharu Igarashi v Shohaku Higashi*, 289 AD2d 128 [1st Dept 2001]), they do not conclusively resolve the allegations in the complaint that plaintiff's alleged abuser, Father Eugene O'Brien, was an agent of the Archdiocese, that the Archdiocese exercised supervision and control over Fr. O'Brien's

appointment or employ, and that there were special relationships between plaintiff, the Archdiocese, and Fr. O'Brien (see *Weil, Gotshal & Manges, LLP v Fashion Boutique of Short Hills, Inc.*, 10 AD3d 267 [1st Dept 2004]). The affidavit of the Associate General Counsel for the Archdiocese does not constitute sufficient documentary evidence for the purpose of a pre-answer CPLR 3211(a)(1) motion (see *Johnson v Asberry*, 190 AD3d 491 [1st Dept 2021]; *Flowers v 73rd Townhouse LLC*, 99 AD3d 431 [1st Dept 2012]). In any event, the affidavit consists mainly of legal conclusions and denials.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 23, 2023

A handwritten signature in black ink, reading "Susanna Molina Rojas". The signature is fluid and cursive, with the first name "Susanna" and last name "Rojas" being more prominent than the middle name "Molina".

Susanna Molina Rojas
Clerk of the Court